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COMMISSION ON HUMAN RIGHTS

Forty-eighth session

SUMMARY RECORD OF THE 38th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 February 1992, at 3 p.m.

Chairman: Mr. SOLT (Hungary)

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Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus;

(b) Situation of human rights in occupied Kuwait;

(c) Situation of human rights in various countries (continued)

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GE.92-10963/4401B

The meeting was called to order at 3.25 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEMS 8, 15, 16, 18 AND 20 (continued)

Draft resolution E/CN.4/1992/L.21 (agenda item 8)

1. Mrs. RADIC (Yugoslavia), introducing the draft resolution on behalf of the sponsors, which had been joined by Afghanistan, Algeria, Gabon, the Islamic Republic of Iran, Lesotho, Madagascar and Sri Lanka, said that it did not contain anything new as far as substance was concerned and she therefore hoped that it would be adopted by a large majority. Recalling the relevant resolutions of the General Assembly and its own resolutions on the subject, the Commission on Human Rights reaffirmed the importance of the Declaration on the Right to Development and again called on the Preparatory Committee for the World Conference on Human Rights to take the Declaration, as well as other relevant documents, fully into account, in examining the relationship between development and the enjoyment of human rights. It again invited the Secretary-General to put forward concrete proposals on the effective implementation and promotion of the Declaration on the Right to Development and decided to consider the same item at its next session. It also took note of the report of the Secretary-General on the effective implementation of the Declaration on the Right to Development (E/CN.4/1992/10), prepared in accordance with its resolution 1991/15.

2. The sponsors of the draft resolution had taken account of proposals made by other members of the Commission and had included the following amendments: the sixth and eighth preambular paragraphs had been combined, with the word "Noting" being deleted in the eighth paragraph and the words "as well as" being added at the end of the sixth. In the fifth preambular paragraph, the first line should be amended to read "the increasing recognition, as noted in that report,"; in the third line, the word "and" should be replaced by the word "in" and the words "the rights of the individual" should be replaced by the words "human rights".

3. Mr. KARIM (Bangladesh), Mr. MBURU (Kenya), Mr. NZEYIMANA (Burundi), Mr. SENE (Senegal) and Mr. CORREIA (Angola) said that they wished to join the sponsors of the draft resolution.

4. The CHAIRMAN said that the representative of Japan had requested that draft resolution E/CN.4/1992/L.21 should be put to a vote.

5. At the request of the representative of Yugoslavia, a vote was taken by roll-call.

6. China, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Brazil, Bulgaria, Burundi, Canada, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Czech and Slovak Federal Republic, France, Gabon, Ghana, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Mauritania, Mexico, Netherlands, Nigeria, Pakistan, Peru, Philippines, Portugal, Russian Federation, Senegal, Somalia, Sri Lanka, Syrian Arab Republic, Tunisia, Uruguay, Venezuela, Yugoslavia, Zambia.

Against: United States of America.

Abstaining: Germany, Japan, United Kingdom.

7. Draft resolution E/CN.4/1992/L.21, as orally amended, was adopted by 48 votes to 1, with 3 abstentions.

8. Mr. STEELE (United Kingdom of Great Britain and Northern Ireland), speaking in explanation of vote, said he had abstained because, although his delegation recognized the importance of the relationship between the enjoyment of human rights and development, it had abstained in 1986 when the Declaration on the Right to Development had been adopted. His country considered that development was the concern of each State and that the best way of achieving it was to respect the human rights protected by the two International Covenants.

9. Mr. SEZAKI (Japan) said that, although development was the main concern of all countries and of the developing countries in particular, it was also their own responsibility. Human rights were rights applicable to individuals, not to States. He had therefore abstained because it was difficult to include the right to development in that category.

10. Mr. MALGUINOV (Russian Federation) said that he had voted in favour of the resolution because, unlike the preceding speakers, he believed that the right to development was one of the most important rights of every human being and that it could be exercised only in a genuine democracy which respected the rule of law. That was true not only of economic rights, but also of the right to democratic development and the strengthening of institutions. The resolution was thus intended for every society making headway towards democracy.

Draft resolution E/CN.4/1992/L.9 (agenda item 15)

11. The CHAIRMAN said that draft resolution E/CN.4/1992/L.9 had been withdrawn.

Draft resolution E/CN.4/1992/L.19 (agenda item 15)

12. Ms. LUND (Observer for Norway), introducing the draft resolution on behalf of the sponsors, which had been joined by Argentina and Iceland, drew the attention of the members of the Commission to the third preambular paragraph, which stated that the Commission on Human Rights noted with special

satisfaction General Assembly resolution 46/81, in which the General Assembly solemnly declared that acceptance of the Covenants contributed greatly to the protection of human rights and fundamental freedoms. In the fifth preambular paragraph, it took note of the entry into force of the second Optional Protocol aiming at the abolition of the death penalty.

13. In operative paragraphs 2 and 3, the Commission appealed to all States to become parties to the two International Covenants on human rights and invited the Secretary-General to intensify systematic efforts to assist States to ratify those instruments by providing them with advisory services. In paragraphs 7 and 8, the Commission stressed that it was important for States parties strictly to observe their obligations under those instruments and to avoid the erosion of human rights through derogations and expressed its satisfaction with the work of the monitoring bodies and the efforts they were making to improve their methods of work. Paragraphs 11, 12, 13 and 14 related to reporting obligations. States were urged to fulfil those obligations in good time and take duly into account the observations made at the conclusion of the consideration of their reports by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights; they were also invited to give particular attention to the dissemination at the national level of the reports they had submitted to those two Committees and to the summary records relating to the examination of those reports. In paragraph 14, the Commission once again encouraged all Governments to publish the texts of the Covenants as widely as possible. In paragraph 15, it invited the Economic and Social Council to give favourable consideration to the request by the Committee on Economic, Social and Cultural Rights to hold an additional session during the first half of 1993. She hoped that the draft resolution would be adopted by consensus, as in the past.

14. Draft resolution E/CN.4/1992/L.19 was adopted without a vote.

Draft resolution E/CN.4/1992/L.18 (agenda item 16)

15. Mr. KESSEL (Canada), introducing the draft resolution on behalf of its sponsors, said that the implementation of the United Nations human rights instruments was a source of serious concerns, which had been expressed in the Commission, as well as in the General Assembly and the Economic and Social Council.

16. In the draft resolution, the Commission on Human Rights stated that, in its view, the effective functioning of treaty bodies established pursuant to United Nations human rights instruments was indispensible for the implementation of such instruments, but depended on effective systems of periodic reporting and on securing sufficient financial resources. It welcomed the fact that, in its resolution 46/111, the General Assembly had endorsed the recommendations of the second and third meetings of persons chairing the human rights treaty bodies aimed at streamlining, rationalizing and otherwise improving the reporting procedures and requested the Secretary-General to give high priority to establishing a computerized database to improve the efficiency and effectiveness of the functioning of the treaty bodies.

17. He drew the attention of the members of the Commission to the fact that, in the draft resolution, the Commission endorsed the idea of obtaining regular budget funding for the bodies established under the Convention on the Elimination of Racial Discrimination and the Convention against Torture, as recommended by the persons chairing the human rights treaty bodies at their meeting in October 1990. Account was taken of the fact that some steps would have to be taken during future sessions of the General Assembly and the meetings of the States parties to the two Conventions in question before funding for those bodies could be approved.

18. He noted that in subparagraph (c) of the sixth preambular paragraph, the word "and" should be replaced by the word "any". In operative paragraph 5, the words "the extent of" should be added between the word "of" and the word "reservations" and the words "and their legal effect" should be deleted. In paragraph 11, the words "as a matter of the highest priority, ensure" should be replaced by the words "take appropriate measures to ensure" in order to bring the text into line with the General Assembly resolution. He expressed the hope that the draft resolution would be adopted by consensus.

19. Mr. KRALIK (Czechoslovakia) and Mr. PIRIZ BALLON (Uruguay) said that they wished to join the sponsors of draft resolution E/CN.4/1992/L.18.

20. Mr. CROOK (United States of America) said that the draft resolution under consideration was quite useful and that he did not want to prevent it from being adopted by consensus. He nevertheless wished to dissociate himself publicly from that consensus for the following reason: States parties to human rights instruments had to uphold their financial obligations. His country was willing to consider ways of strengthening procedures for the collection of contributions, but it could not endorse regular budget funding for all human rights instruments. In document A/46/650, which he had submitted in November 1991, the Secretary-General had concluded that "States can not be absolved of their financial obligations under the relevant treaties. It would appear, therefore, that it would be necessary to invoke the amendment provisions in the two treaties if responsibility for funding the activities of the two bodies were to be formally vested in the United Nations". His delegation agreed with that statement and did not consider it necessary to request a further report on that matter.

21. Draft resolution E/CN.4/1992/L.18, as orally amended, was adopted without a vote.

22. Mrs. LIMJUCO (Philippines) said that her delegation had reservations about paragraph 4 of the resolution relating to the institutionalization of the meetings of persons chairing the human rights treaty bodies. Although those meetings were very useful, their institutionalization was not justified, particularly in view of the financial problems the United Nations now faced. It would be better to consider the possibility of organizing ad hoc meetings as and when necessary.

23. Mr. SEZAKI (Japan) said that, although his delegation had not objected to the adoption of draft resolution E/CN.4/1992/L.18, it had serious reservations about that draft resolution and would like them to be placed on record. While recognizing the importance of the instruments to which the draft resolution

related, his delegation considered that the meetings of the treaty bodies should be financed by the States parties. That was a basic principle that could not be changed simply because those States did not fulfil their financial obligations. Moreover, article 26 of the Vienna Convention on the Law of Treaties provided that every treaty in force was binding upon the parties to it and his delegation therefore had strong doubts whether other States could be requested to contribute to the financing of the treaty bodies. Japan, which now contributed 12.45 per cent of the total United Nations regular budget, could not endorse a decision that seemed unreasonable and contrary to the principle that the contracting parties to a legal instrument should bear the costs arising out of its implementation. That was why his delegation had reservations about draft resolution E/CN.4/1992/L.18.

Draft resolution E/CN.4/1992/L.16 (agenda item 18)

24. Mrs. ILIC (Yugoslavia), introducing draft resolution E/CN.4/1992/L.16 on behalf of the sponsors, said that it took account, in the preamble, of the decision the Commission had taken at its thirty-fourth session to set up an informal working group to prepare a draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities, as well as of Economic and Social Council resolution 1991/30 and General Assembly, resolution 46/115 on the work of the working group. In operative paragraph 1, the Commission took note with satisfaction of the report of the working group and of the fact that it had completed the second reading of the draft declaration it had been requested to prepare; in paragraph 2, it approved the text of the draft declaration; in paragraph 3, it decided to consider that question at its forty-ninth session with a view to considering measures to give effect to the draft declaration, when it had been adopted; and, in paragraph 4, it recommended that the Economic and Social Council should adopt a draft resolution in which it would approve the draft declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities and recommend it to the General Assembly for adoption and further action. She pointed out that the text of the preamble of the draft resolution recommended for adoption by the Economic and Social Council had been one of the suggestions made by the working group. In that connection, the word "also" in the first line of the second preambular paragraph was superfluous and should be deleted. The text of draft resolution E/CN.4/1992/L.16, which was the result of lengthy consultations held by delegations with a view to taking account of all the opinions expressed, should be adopted by consensus. She thanked all those who had worked on the draft declaration for many years or who had taken an interest in the question.

25. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Sao Tome and Principe, Gabon, the United Kingdom and Burundi had joined the sponsors of draft resolution E/CN.4/1992/L.16.

26. Mr. RODRIGUEZ (Costa Rica) said that his country also wished to become a sponsor of the draft resolution.

27. Mr. ERKMENOGLU (Observer for Turkey) said that his delegation had taken an active part in the discussions of the working group set up to draft the declaration on the rights of persons belonging to national or ethnic,

religious and linguistic minorities and that its views were reflected in the report of the working group (E/CN.4/1992/48). In its opinion, the draft declaration had a serious defect: it did not contain a definition of the term "minorities". In order to avoid any confusion or misinterpretation, his Government would therefore interpret the rights and obligations contained in the draft declaration in accordance with bilateral and international agreements and treaties in which the status of minorities was expressly defined. According to the Turkish Constitution and the relevant Turkish legislation, all Turkish citizens, without exception, enjoyed equal rights and status and no discrimination based on ethnic, religious or linguistic grounds could thus be exercised in favour of or against any person or group. Moreover, although the draft declaration referred to the territorial integrity of States, it said nothing about political unity, as did the Helsinki Final Act and General Assembly resolution 2625 (XXV), which associated those two principles. His Government therefore considered that the draft declaration was incomplete and null and void.

28. Mr. SENE (Senegal) commended Mrs. Ilic, whose skill and thorough knowledge of all the legal problems that arose in the field of human rights and humanitarian law had enabled the working group to complete its work on the draft declaration. He would like the interests of all countries to be taken duly into account in the draft declaration so that it might be adopted rapidly and he encouraged the working group to continue and complete its work optimally in a spirit of consensus and mutual understanding.

29. Draft resolution E/CN.4/1992/L.16 was adopted without a vote.

30. Mr. DAUM (Germany) said that his delegation had joined in the consensus on draft resolution E/CN.4/1992/L.16 because it believed that it was essential to provide better protection for minorities. It nevertheless interpreted the term "minorities" as meaning only well-defined separate and distinct groups which had been long established in the territory of a State. In its opinion, the provisions guaranteeing the rights of minorities should not be applied in such a way as to encourage the creation of new minorities or to hamper the process of the assimilation of immigrants. In other words, they did not entitle a group of persons living in the territory of a State, such as foreign nationals benefiting from the immigration laws, to form separate communities within that State. In his delegation's understanding, only nationals of the State in question, who had always lived there, could exercise minority rights.

Draft resolution E/CN.4/1992/L.15 (agenda item 20)

31. Mr. SWIFT (Observer for Ireland), introducing the draft resolution on behalf of the sponsors, said that, in operative paragraph 13, the words "Also calls upon" should be replaced by the words "Encourages". In the draft resolution, the Commission on Human Rights reaffirmed that freedom of thought, conscience, religion and belief was a right guaranteed to all without discrimination (para. 1), recalled the role played by States, the United Nations, academic institutions and non-governmental organizations in implementing and promoting the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (paras. 3 to 7) and welcomed the efforts of non-governmental organizations to promote the implementation of the Declaration, including the submission of

their views to the Preparatory Committee of the World Conference on Human Rights (para. 9). The Commission also thanked the Special Rapporteur, Mr. d'Almeida Ribeiro, for his latest report (E/CN.4/1992/52, para. 2) and encouraged Governments to give serious consideration to inviting the Special Rapporteur to visit their country (para. 13). It also encouraged the Human Rights Committee to give priority to its announced intention to prepare a general comment on article 18 of the International Covenant on Civil and Political Rights, dealing with freedom of thought, conscience and religion (para. 8) and decided to extend the mandate of the Special Rapporteur for a further three years (para. 10). His delegation hoped that the draft resolution, as amended, could be adopted by consensus.

32. Mr. MAUTNER-MARKHOF (Secretary of the Commission) said that Sao Tome and Principe, Argentina, Bulgaria, Chile, Japan and Iceland had joined the sponsors of the draft resolution. Introducing the financial and administrative implications of the draft resolution, he said that the cost estimates of the extension of the Special Rapporteur's mandate would be $59,500 in 1992, $61,500 in 1993, $64,600 in 1994 and $67,800 in 1995. Provisions for 1992 and 1993 were included in the programme budget for the biennium 1992-1993 and requirements for 1994-1995 would be taken into account at the time of the preparation of the proposed programme budget for that biennium.

33. Mr. RODRIGUEZ (Costa Rica) and Mr. PIRIZ BALLON (Uruguay) said that they wished to join the sponsors of draft resolution E/CN.4/1992/L.15.

34. Mr. ARCILLA (Philippines) commended the Special Rapporteur on the excellent work which he had been doing for the past six years and which had undoubtedly contributed to the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Inevitably, however, the day would come when the Special Rapporteur's task would be less heavy and his delegation therefore had reservations about the decision to extend his mandate for a further three years, as indicated in paragraph 10 of the draft resolution. Although it was convinced of the need for the Special Rapporteur's work, it considered that the Sub-Commission or the Centre for Human Rights could take over his functions, on the understanding that the appointment of special rapporteurs had always been a temporary measure. The serious financial difficulties of the United Nations were, in his delegation's view, yet another reason for expressing reservations about the extension of the Special Rapporteur's mandate, which, in any event, should not be longer than one year, thus giving the Commission the possibility of reconsidering the matter at its next session. That principle might, moreover, be applied to other cases.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT

(c) SITUATION OF HUMAN RIGHTS IN VARIOUS COUNTRIES

(agenda item 12) (continued) (E/CN.4/1992/3, 4, 25, 26, 27 and Corr.1, 28 and Add.1, 29, 31-37, 60, 64, 67, 68 and 72; E/CN.4/1992/CRP.1-3; E/CN.4/1992/NGO/2, 5, 10, 13, 19, 24 and 34; E/CN.4/1991/24, 27-31, 33 and Add.1, and 34-36; A/46/446, 529, 542, 544 and Corr.1, 606 and 647)

35. Mr. PREJEAN (Grand Council of the Crees of Quebec) said that he was concerned about continuing violations of human rights in Guatemala, especially as they affected the indigenous peoples, despite President Serrano's pledge to improve the human rights situation in his country. According to preliminary statistics of the Human Rights Commission of Guatemala, there had been 2,000 known cases of gross human rights violations in Guatemala in 1991, including individual and collective extrajudicial executions, "disappearances", cases of arbitrary detention, assassination attempts and acts of torture. According to other sources, 852 cases of extrajudicial executions had been reported during the first eight months alone of President Serrano's Government and no one had been prosecuted for them. The number of persons who had disappeared in the past few years was said to be 45,000.

36. Digging in clandestine graves by United States forensic anthropologist, Clyde Snow, had shown that almost all the victims of collective and individual executions had been Indians. It was a well-known fact that the indigenous peoples were the main target of the repression in Guatemala, where genocide and ethnocide were instruments of Government policy. It would be remembered that, under the military dictatorship of Rios Montt in the early 1980s, some 440 Mayan villages had been completely destroyed. Unfortunately, the violent oppression of the indigenous populations of Guatemala continued under the current civilian Government. On 20 January 1991, for example, only a few days after President Serrano had come to power, Jacinto Diaz Felipe had been beaten to death by armed uniformed men in the village of Natzal. On 10 April 1991, soldiers who had been searching houses in the region of Xecoxal had accused two families of being guerillas simply because they had had a typewriter and a sewing machine in their houses. They had been taken away and nothing had been heard of them since. More recently, the indigenous chief, Diego Domingo Martin, had been abducted by five armed, masked men. His family had recognized the local commander of the Civil Defence Patrols as one of the abductors and had received death threats for having denounced him.

37. The members and collaborators of the few non-governmental organizations that had been established as a result of the violence in Guatemala had increasingly become the target of violence. For example, the Consejo de Comunidades Etnicas "Runujel Junam" (CERJ) had been set up in 1988 to combat the forced recruitment of indigenous persons into the Civil Defence Patrols. Although forced recruitment was contrary to article 34 of the Constitution of Guatemala, those who resisted were labelled "subversives" by the army and subjected to extrajudicial execution, disappearance and death threats. The President of CERJ, Almicar Mendez, was probably the most threatened member of that organization at the present time. On 15 April 1991, he had escaped an

attempted abduction when his neighbours had intervened. On 26 January 1992, he had again received death threats in a message which had included his name and that of the leaders of several other non-governmental organizations.

38. In view of the consistent pattern of gross violations of human rights in Guatemala in the past few decades, he was tempted to ask why Guatemala had been receiving such limited attention from the international community, which seemed to be practising a form of racism. Now that the 500th anniversary of the discovery of the Americas by Europeans was about to be celebrated, it was urgently necessary to protect the indigenous populations from human rights violations. Colonial and ethnocide-like policies based on assumptions of racial and cultural superiority, which were conveniently used to confiscate traditional lands and resources and destroy the indigenous populations' spirituality and way of life, were still being used against them throughout the Americas, including Canada.

39. The Grand Council of the Crees therefore urged the Commission to consider the situation of human rights in Guatemala under agenda item 12, to appoint a special rapporteur to monitor the human rights situation in that country, particularly as it affected the indigenous peoples, and to submit a preliminary report to the United Nations General Assembly and to the Commission's forty-ninth session. Although his organization supported the peace negotiations taking place between the Government of Guatemala and Guatemalan National Revolutionary Unity, it stressed that, unless the legitimate representatives of the indigenous populations of Guatemala were invited to those negotiations, there could not be any long-term solution to that country's problems.

40. Mr. MASRI (Syrian Arab Republic) said that, the day before, the Israeli army had invaded southern Lebanon, committing very serious violations of human rights, destroying houses and massacring the inhabitants, right before the Commission's very eyes, so to speak, and despite the efforts of the international community, which had unanimously condemned such acts. The Tel Aviv regime was thus showing the whole world its unlawful nature. Legal measures had to be taken at the international level to force Israel to respect the resolutions of the Security Council, the General Assembly and the Commission on Human Rights and to withdraw immediately from all of Lebanese territory. The Council of the League of Arab States had held an emergency meeting the night before. On that occasion, the Secretary-General of the League of Arab States had made a statement which he himself wished to bring to the Commission's attention under agenda item 12. Speaking on behalf of the member States of the League, its Secretary-General had said that, at a time when all the peoples of the world wanted peace and security in the Middle East, Israel had committed a treacherous aggression against Lebanon, thereby disregarding all the international covenants and instruments in force, violating the Charter of the United Nations and showing once again that terrorism and violence were the two pillars on which the Zionist-colonialist policy was based.

41. According to the Secretary-General of the League of Arab States, Israel was trying to create an explosive situation in Lebanon, where it wanted at any cost to sabotage the reconciliation process, at the very time when all Arab countries were in favour of peace and had agreed to negotiations in order to

find a fair and comprehensive solution to problems in the Middle East. The secretariat of the League of Arab States was therefore requesting the Security Council to urge the parties to the conflict to display moderation and take measures to halt the aggressor and put an end to Israel's racist expansionist policy. He would like the Commission to take a stand, condemn that aggression as a flagrant violation of human rights and demand Israel's immediate and unconditional withdrawal from southern Lebanon.

42. Mr. OMAR (Libyan Arab Jamahiriya) said that he agreed with the views expressed by the preceding speaker and that the statement by the Secretary-General of the League of Arab States reflected his country's position with regard to the invasion of Lebanon by Israel.

43. Mr. ZAHRAN (Observer for Egypt) said he agreed with what the representative of the Syrian Arab Republic had just said and noted that his own country supported the statement by the Secretary-General of the League of Arab States.

44. Mr. MOTTAGHI-NEGAD (Islamic Republic of Iran), supported by Mr. ANSARI (Pakistan), said that he endorsed the statement made by the representative of Syria.

45. Mr. AL-DOURI (Iraq) said that he also supported the views expressed by the representative of Syria and feared that, with the support of the United States, Israel would continue to commit acts of aggression against Lebanon.

46. Mr. ZHANG Yishan (China) said that he was concerned about Israel's aggression against Lebanon and condemned what was, in his view, a serious violation of the fundamental rights of the Lebanese. Israel's actions would harm the peace process in the Middle East. China would continue to support the Arab nation until it won its just battle against Israel.

47. Mr. KOTHARI (Habitat International Coalition) said that the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Committee on Economic, Social and Cultural Rights attached particular importance to the situation of homeless persons. The Sub-Commission had thus unanimously adopted resolution 1991/12 entitled "Forced evictions" and, on 12 December 1991, the Committee on Economic, Social and Cultural Rights had adopted a "general comment" entitled "Right to adequate housing", in which it stated that "instances of forced evictions were prima facie incompatible with the requirements of the Covenant and could only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law". Like those two bodies, the Commission on Human Rights had to deal with the question of forced evictions. Although security in one's home was one of the most basic rights, many of those responsible for the process of forced evictions (Governments, developers, owners, international financial institutions, etc.) refused to admit that such evictions were a violation of human rights. At present, about 1 billion persons were homeless or did not have adequate housing. There were many types of eviction, which were often disguised as "cleaning up the streets", urban renewal, involuntary displacement or resettlement. There were countless mass evictions throughout the world. They could take place at the time of major international events,

as, for example, in Seoul in 1988, when, during the preparations for the Olympic Games, over 1 million persons had been confronted by demolition squads and thrown out of their homes by force. There was no lack of cases and the following were only a few examples among many. In rural regions in Brazil, 1,630 persons who had been defending their right to housing and to land had been killed since 1964. In December 1990, some 44,000 of Nairobi's poorest inhabitants had stood by helplessly while their community had been flattened by bulldozers. In 1990, the homes of 3,000 Tibetans had been demolished by Chinese authorities in the city of Lhasa. From 1983 to 1988, at least 50,000 inhabitants of Calcutta in India had been left homeless as a result of evictions. In the Indian state of Bihar, 70 villages had been flooded when a dam had been filled. In Bhutan, more and more people were being evicted from their dwellings. From January to June 1988, in Manila, about 60,000 inhabitants had been evicted by force from their homes. In New York as well, there were more and more homeless persons.

48. In addition to cases of eviction which had already occurred, his organization had received reliable and detailed information on planned evictions. For example, in Papua New Guinea, the authorities, which had already evicted hundreds of persons in the city of Lae, had stated that they intended to evict a further 20,000 inhabitants. In Madras (India), 118 slums were to be removed from "private lands", and 100,000 persons would be affected. The Sardar Sarovar dam, a project financed by the World Bank, would displace between 150,000 and 200,000 villagers. In the Dominican Republic, despite harsh criticism by the Committee on Economic, Social and Cultural Rights, the President of the Republic had ordered the immediate eviction of 70,000 residents of the community of La Cienaga-Los Guandules. In Israel, 122 Palestinian villages were to be demolished. In Thailand, 12,000 villagers living in areas recently classified as "preserved forests" were threatened with eviction. In Indonesia, plans in the area of Kaja Utra would result in the eviction of 17,000 families. As part of the plans for the 1996 summer Olympic Games in Atlanta, Georgia (United States), several communities were threatened with eviction and thousands of residents might become homeless in a city that already had more than 10,000 homeless persons.

49. In the majority of cases, the persons evicted were members of the most economically, politically and socially disadvantaged groups living in permanent insecurity. Evictions were contrary to the requirements of economic, social and cultural rights and a violation of other human rights, such as the right to choose one's place of residence, the right to security of person, the right to freedom of movement and the right to life. His organization, which demanded compensation and alternative accommodation for persons evicted, would also like the Commission to play a preventive role with Governments. It urged the Commission to take stringent action in that area and to appoint a special rapporteur on forced evictions. It might play a preventive role because most cases of forced evictions were known in advance and could be prevented. The functions of such a special rapporteur were outlined in document E/CN.4/1992/NGO/2. The work of the special rapporteur would also serve as a useful supplement to the study being carried out by the Sub-Commission on the right to adequate housing.

50. Habitat International Coalition requested the Commission to give effect at least to paragraphs 2 and 3 of Sub-Commission resolution 1991/12 and, for that end encourage Governments to take measures to curtail the practice of forced evictions.

51. Mr. HARPER (Commission of the Churches on International Affairs (World Council of Churches)) said that even democratically elected civilian Governments were no guarantee of the protection of human rights. That was especially true where a strong military-police sector went unchecked or continued to act with impunity.

52. World Council of Churches was deeply troubled by the situation of human rights in Myanmar. It had condemned actions by the State Law and Order Restoration Council (SLORC) which took no account of the outcome of the May 1990 elections. The arrests of nearly 70 leaders of the National League for Democracy (NLD), including the house arrest of Nobel Peace Prize winner, Mrs. Aung San Suu Kyi, demonstrated the refusal of the authorities to respect the right to free elections, freedom of expression and freedom of assembly. Moreover, action by SLORC against ethnic groups, students and internally displaced persons, especially in the border areas, had intensified in the second half of 1991. The information received concerned the burning of villages, looting, forced evictions, systematic destruction of forests, forced civilian labour, rape, torture and the drafting by the army of minors, elderly persons and even pregnant women. The military repression had had serious economic consequences. The World Council of Churches urged the Commission to renew the mandate of the independent expert to investigate human rights conditions in Myanmar and to request the authorities in power in that country to facilitate the work of the independent expert as a step towards the restoration of human rights.

53. In 1991, the World Council of Churches had urged the Commission to include the question of human rights in Guatemala under agenda item 12 and to appoint a special rapporteur on that question. The member States had decided to leave the question of Guatemala under agenda item 19 (Advisory services) for another year, in the hope that the human rights situation would improve. Unfortunately, that had not been the case. There were now just as many cases of torture, disappearance and summary and arbitrary executions, if not more than during President Cerezo's last year in office. The Government showed no willingness to prosecute the persons who committed violations and who were mostly members of the armed forces or the police. The persistence of systematic violations and the impunity with which they were committed were causes of political instability in the country and obstacles to the democratic functioning of the State.

54. In the light of the seriousness of the situation in Guatemala, the Commission must take all necessary measures to protect defenceless citizens and strengthen civil society. The World Council of Churches urged it to include the question of the situation in Guatemala under agenda item 12 and to appoint a special rapporteur to monitor that situation.

55. The World Council of Churches was deeply concerned about the continuing dramatic situation in Sri Lanka. In order to protect innocent persons and encourage the parties to the conflict to negotiate, it was in favour of a

second visit to Sri Lanka by the Working Group on Enforced or Involuntary Disappearances. It requested the Commission to demonstrate its concern by appointing a special rapporteur on the situation in that country. The Commission should also turn its attention to the recent repatriation of 3,000 Tamil refugees from India to Sri Lanka; it was important to ensure that repatriation was strictly voluntary.

56. The World Council of Churches was also concerned about the situation in East Timor. The events of 12 November 1991, when an undisclosed number of civilians had been gunned down by members of the Indonesian armed forces, had not been isolated. It was also a matter of regret that the persons responsible for the Santa Cruz massacre had not been punished. The General Secretary of the World Council of Churches had expressed the hope that all parties would engage in a national dialogue leading to peace and justice. The Commission should take steps to ensure that a fair and objective investigation of the Santa Cruz massacre was carried out under United Nations auspices.

57. The Commission should also pay particular attention to a growing number of African countries. The situation in Sudan had already been denounced at past sessions. More and more Governments and their security forces were resorting to violence to suppress popular movements fighting for democracy and popular participation in the public affairs. There had been reports of arbitrary arrests, detention, torture and summary executions in Togo, Zaire, the Congo, Cameroon, Kenya and Madagascar. The World Council of Churches would like the Commission to pay particular attention at its future sessions to violations of human rights in Africa.

58. The CHAIRMAN invited the delegations and observers which had asked to do so to speak in exercise of the right of reply, in accordance with rule 45 of the rules of procedure.

59. Mr. ZHANG Yishan (China) said that a person of North American origin had taken the trouble to come to Geneva to speak in the Commission the previous day. In his long statement, he had spoken out in particular against the Chinese Government's "White Paper", the systematic balance sheet of the situation of human rights prepared by China for the past six years. What was it about that document that had so irritated the person in question? The explanation was quite simple: the White Paper, which simply described the situation in China and in similar countries, stated a point of view that was different from the one he held. How could a person claim to be a defender of freedom of expression when he could not even allow an opinion other than his own?

60. Whereas the Chinese Government attempted to take stock in its White Paper of the situation with regard to the promotion of human rights, a "blue book" of more than 1,000 pages published each year in February by the country the person in question represented gave a broad picture of the situation in the rest of the world on the basis of false allegations. Why did that document not say anything about the human rights situation in that country? Was that an involuntary or deliberate oversight? It would be wise for the document to have an addendum which would show that cases of human rights violations were not unheard of in the country in question, not to mention racial discrimination and police brutality. It was enough to refer, for example, to

the occupation of Grenada, the invasion of Panama and the military pressure exerted on small countries. Since the end of the Second World War, the country in question had been involved whenever there had been instability or an armed conflict in the world. As it was out of the question for the Chinese delegation to complete the missing chapter in that blue book, it was counting on the Commission to adopt a draft resolution along those lines. What, in fact, gave that country the right to judge other countries in respect of human rights, on the basis of information that had not been verified? That country was violating the principle of the equality of all member States, small and large alike, when it stressed that free elections should be held in a particular country, even though the international community had not given it any instructions to do so. That country relied exclusively on its military power - since its economic power was no longer even worth mentioning - to place itself above the rest of the world, practising hegemonism and the policy that might was right.

61. Mr. ROA KOURI (Cuba) said that, although Mr. Schifter, the United States Assistant Secretary of State for Humanitarian Affairs and Human Rights, had not mentioned any country by name in his statement, he had referred in general to all countries which espoused Marxism-Leninism. The Cuban revolutionaries, for their part, were the heirs of the great patriotic and anti-colonialist traditions of Simon Bolívar and Benito Juárez, the anti-imperialism of José Martí and the scientific socialism of Karl Marx, Friedrich Engels and Lenin. To say that Marxism-Leninism had been imported by certain countries was as absurd as to deny the universality of the ideas of Socrates, Plato and Aristotle or to say, in the case of the United States itself, that the thinking of John Locke and Tom Payne was foreign in nature. The Assistant Secretary of State was trying, almost subconsciously, to portray Leninism as the negation of human rights, which were supposedly the prerogative of the bourgeois ideology that was based on sacrosanct private ownership, which was, however, well known to involve a great many socio-economic inequalities.

62. In referring, for example, to freedom of conscience and religion, as provided for in article 18 of the Universal Declaration of Human Rights, Mr. Schifter had been forgetting that the exercise of the right to such freedom in his own country was affected by the ownership and private exploitation of resources. In that connection, it might be recalled that, recently, the United States Supreme Court had not seen any contradiction between the expropriation, for logging purposes, of land used by three indigenous nations in northern California for their religious ceremonies and the right freely to practise one's religious beliefs, as guaranteed in the Constitution of the United States. The decision would probably have been quite different if it had not involved an oppressed minority, but so-called "White Anglo-Saxon Protestants", who were in power and of whom the Assistant Secretary of State was one.

63. In an incredible piece of sophistry, Mr. Schifter had admitted that the right to subsistence was undeniable, but stated that it could be realized only in the context of free enterprise and private ownership. Historical and present-day reality nevertheless showed that he was wrong. Contrary to what was claimed, Marxist-Leninists were of the opinion that countries aspiring to development were not free to violate civil and political rights. As long as

certain other rights - to food, work, education, health and culture - had not been guaranteed, however, none of the fundamental freedoms enshrined in the Universal Declaration of Human Rights would be assured.

64. How could it be seriously stated that the idea of freedom of expression was the same for the unemployed, homeless and illiterate and for the directors of transnational media corporations? How could an ordinary citizen get together the average of $3 million which, according to a survey conducted in 1988 by the newpaper USA Today, a United States Senator would need in order to be elected to Congress? How could the 40 million persons in the United States who lived below the official poverty line take an active part in the political life of their country? How had the President of the United States been able to reach the White House with less than 30 per cent of the potential number of votes and a 50 per cent abstention rate?

65. History had never stopped showing that the capitalist countries owed their development to their relentless exploitation of the colonized peoples of Africa, Asia and America. Underdevelopment continued in those parts of the world, moreover, except in countries like Cuba, which had undertaken to build a freer, more equitable and more decent society based on socialist ideas. Experience had proven that capitalism, free enterprise and private ownership were incapable of solving mankind's main problems. In those conditions, was it really possible to credit Karl Marx with the theory of the "superior race", with that of Lebensraum and with the system of apartheid? Had Friedrich Engels taken over more than 50 per cent of Mexican territory? Had Puerto Rico been occupied by Leninists since 1898? Were the supporters of Marx, Engels, Lenin and Fidel Castro responsible for the third world's enormous foreign debt? Not even the most determined sophist could say that!

66. It must be recognized that it had been quite audacious of Mr. Schifter to refer to the ruling by the United States Supreme Court in the Miranda case. It was the Republican authorities, in power since 1981, who had tried to go back on the safeguards embodied by the Court in that ruling, on the strength of the ultra-conservative majority from which Presidents Reagan and Bush had benefited. It was easy to see which ideology the United States Assistant Secretary of State was trying to impose with the usual arrogance of his country's leaders, on the pretext that ideologies no longer existed.

67. Mr. MBARUSHIMANA (Observer for Rwanda), replying to Amnesty International, which had referred in its statement the previous day to recent mass arrests and extrajudicial executions of civilians belonging to the ethnic group held responsible for armed opposition in his country, said it should be stressed that the persons arrested following the war imposed on Rwanda by the aggressors belonging to the Rwandese Patriotic Front were from all Rwandese ethnic groups. They had, moreover, all been released as part of the national reconciliation advocated by the authorities, but unfortunately boycotted by the Patriotic Front. In addition, the few cases of extrajudicial executions recorded had affected all ethnic groups without distinction. The circumstances in which they had taken place had been described in detail by the Rwandese Minister of Justice in his statement two days previously. It was clear that responsibility lay with Rwanda's aggressors, not with its Government. The Rwandese Government had taken it upon itself to provide

Amnesty International with all the necessary information and it requested that organization to urge the aggressors responsible for those extrajudicial executions to prevent them from happening again.

68. Mr. BENHIMA (Observer for Morocco) said that, although he did not want to get into an argument with the non-governmental organizations which systematically denigrated his country in a hypocritical and manipulative way, he did wish to recall certain facts. At the recent summit meeting of the member countries of the Security Council of the United Nations, King Hassan II had stated how attached his country was to the Universal Declaration of Human Rights and to the rights for which it provided. A number of eminent persons had, moreover, recently drawn attention to positive developments in Morocco in that regard.

69. The United Nations was now dealing with the question of the Sahara and the referendum was going on. In resolution 725 (1991), the Security Council had endorsed the report of the Secretary-General of the United Nations on the question (S/23299) and supported his efforts, inviting him to submit a further report at the end of the current year.

70. With regard to the statement made the previous day by Centre Europe-Tiers Monde, it was regrettable that that organization should claim to be the spokesman for the Polisario Front, especially as it had refused to listen to the statements of several persons who had belonged to the Front and had come to Geneva to meet representatives of non-governmental organizations, political bodies and the media. Those persons had explained the reasons why they had returned to their country after having gone astray and to denounce human rights violations in the holding camps and the theft of humanitarian assistance to be used for contraband and the bank accounts of the Polisario leaders. His delegation would have liked the Centre Europe-Tiers Monde to hear them, but the representative of that organization had declined at the last minute with the excuse that he had the flu. The Polisario virus was much more likely!

71. Mr. SCHIFTER (United States of America) reminded those who had referred to him personally in their statements that statements in the Commission were made on behalf of Governments. The "blue book" which the United States published each year did not refer to the situation in that country because it was a report to Congress prepared by the State Department. The report had originally been restricted to countries which received assistance from the United States or international organizations, but it had later been extended to the world as a whole. It was based on large numbers of reports and documents prepared by other governmental and non-governmental services. He was tempted to repeat what he had already had an opportunity to say 10 years previously in the Commission following a statement by the late Ambassador Zorin of the late Union of Soviet Socialist Republics and recite the following lines from a famous Gilbert and Sullivan comic opera:

> "The flowers that bloom in the spring, tra la,
> Have nothing to do with the case ...".

The meeting rose at 6 p.m.